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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/772,975	02/05/2004	Laura Stiattesi	71285	5197
23872	7590	10/20/2006	EXAMINER	
MCGLEW & TUTTLE, PC P.O. BOX 9227 SCARBOROUGH STATION SCARBOROUGH, NY 10510-9227				LEE, EDMUND H
		ART UNIT		PAPER NUMBER
		1732		

DATE MAILED: 10/20/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/772,975	STIATTESI, LAURA	
	Examiner	Art Unit	
	EDMUND H. LEE	1732	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 19 June 2006.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-20 is/are pending in the application.
 - 4a) Of the above claim(s) 13-20 is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-12 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ . |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ . | 6) <input type="checkbox"/> Other: _____ . |

DETAILED ACTION

1. Applicant's election of claims 1-12 in the reply filed on 6/19/06 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).
2. Claims 13-20 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 6/19/06.
3. Claims 3 and 4 are objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form. The claims do not further limit the base claim because claim 3 allows for a thickness of 0 cm, whereas the base claim implicitly requires a thickness. The thickness cannot be 0/5 cm.
4. Claims 1-12 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The phrase "in particular...and the like" (cl 1, lns 1-2) is indefinite because the metes and bounds of the phrase are unascertainable.

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The phrase "the surface" (cl 1, ln 6) lacks antecedent basis in the claim.

Step d (cl 1, ln 7) is indefinite because it is unclear whether or not it is related to step c (cl 1, ln 6). If the second deposition is performed on the product of step c then it should be clearly and positively recited as such.

The phrase "the surface" (cl 1, ln 8) lacks antecedent basis in the claim.

The phrase "the intermediate product" (cl 1, ln 10) lacks antecedent basis in the claim.

The phrase "the surface thus obtained" (cl 1, ln 11) lacks antecedent basis in the claim.

The phrase "the surface thus obtained" (cl 1, ln 11) is indefinite because it is unclear to which surface is being referred. If it is the surface of the product of step f (cl 1, ln 10) then it should be positively and clearly recited as such.

The phrase "the product" (cl 1, Ins 12, 13, and 14) lacks antecedent basis in the claim.

The phrase "diameter less than 5 mm" (cl 5,Ins 2-3) is indefinite because the phrase is broad enough to include 0 mm, which would conflict with the claim. The diameter cannot be 0 mm. Applicant is cautioned against the insertion of new matter.

The phrase "diameter less than 2 mm" (cl 6,ln 2) is indefinite because the phrase is broad enough to include 0 mm, which would conflict with the claim. The diameter cannot be 0 mm. Applicant is cautioned against the insertion of new matter.

Claim 8 is idiomatically incorrect.

Claim 8 is indefinite because it uses inappropriate Markush claim language.

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Claim 9 is idiomatically incorrect.

The phrase "the product" (cl 12, ln 1) lacks antecedent basis in the claim.

Correction is required.

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The follow US patents show the state of the art: 3055148; 5443774; and 3836619. The following JP patent show the state of the art: JP 08229906 A; and JP 11235899 A.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to EDMUND H. LEE whose telephone number is 571.272.1204. The examiner can normally be reached on MONDAY-THURSDAY FROM 9AM-4PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christina Johnson can be reached on 571.272.1176. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

EDMUND H. LEE
Primary Examiner
Art Unit 1732

EHL


9/6/06